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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,570	09/14/2005	Aloys Wobben	970054.480USPC	5519
500 7590 04/16/2008 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 5400 SEATTLE, WA 98104				
EXAMINER				
WHITE, DWAYNE J				
ART UNIT		PAPER NUMBER		
3745				
MAIL DATE		DELIVERY MODE		
04/16/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/516,570

**Applicant(s)**

WOBBEN, ALOYS

**Examiner**

DWAYNE J. WHITE

**Art Unit**

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11 and 15-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-9, 11 and 15-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 09 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date 8/30/07: 1/09/08  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 09 January 2008 have been fully considered. Claims 1-9, 11 and 15-18 are pending. Applicant's replacement drawings have been considered and entered. Applicant argues that the combination of Weitkamp and Bervang would not have been obvious since the two references teach complete lifting systems. The Examiner disagrees with this assertion. Since both references teach complete lifting systems, the reference show that the state of the art is aware that the lifting mechanisms can be positioned inside or outside of the pylon and further can be mounted on a vehicle or on a foundation. Therefore, the Examiner maintains the rejection made in the previous Office Action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the limitation of the vehicle being arranged at a base of the wind power installation

of that the winch is within the pylon of the wind installation is was not described in the specification as originally filed.

### ***Response to Amendment***

The amendment filed 09 January 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Figure 4 illustrates a wind power installation 100 having a pylon 10 having a head 102. A vehicle 104 has a winch 106 mounted to it. Figure 4 illustrates the vehicle 104 in two positions to illustrate two example configurations where the winch 106 may be employed to move items. In a first position A, the vehicle 104 is positioned so the winch 106 is inside the pylon 10 and coupled to a counterweight 108. A cable 110 is coupled to the winch and may be used as described above to lift and lower items. .

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weitkamp (EP-1101934 A) in view of Bervang (7,207,777). Weitkamp discloses a wind

power installation ("installation") 10 comprising a pylon 14 having a pod 18; a winch 60; a base 12; at least one deflection roller 64 and at least one rope passage 50 in the region of the pylon head for passing through a hauling cable from the winch. Weitkamp further discloses a second cable passage means (See passage for cable 62) disposed above the pylon head and configured to raise and lower components of the installation within the pylon. The Examiner notes that the winch is also located within the pylon and the pylon is a hollow shaft. Weitkamp does not disclose the winch being located outside the pylon.

Bervang teaches a winch being mounted outside the pylon on a transport vehicle. The Examiner also notes that Applicant states in the Background of the Invention that it is well known in the art to transport a winch to installation for raising and lowering components. Therefore, it is the position of the Examiner that it would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the winch outside the pylon as taught by Bervang for the purpose of installing components of a wind power installation. In regards to method claims 6 and 7 the combination of Weitkamp and Bervang as disclosed above would be inherently capable of performing the method as claimed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-10 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Nickelsen (EP 1101936 A2). Nickelsen discloses a wind power installation comprising: a pylon (not labeled); a base; a pod (referred to as the nacelle); a winch 31; a cable guide 35; a blade opening 33; and a cable 32 coupled to the winch wherein the winch may be located within the rear of the housing.

## **CONCLUSION**

### ***Contact Information***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DWAYNE J. WHITE whose telephone number is (571)272-4825. The examiner can normally be reached on 7:00 am to 3:30 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dwayne J White/  
Examiner, Art Unit 3745

DJW

/Edward K. Look/  
Supervisory Patent Examiner, Art Unit 3745